

IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI

In Re: Edward M Gutting) Case No. 13-61761-13
Angela M Hornsby-Gutting)
Debtors)

MOTION TO AVOID JUDICIAL LIEN ON REAL ESTATE

COMES NOW Debtors, by and through their attorney of record, and for their Motion to Avoid Judicial Lien of Capital One, and in support thereof state:

1. Debtors, Edward M Gutting and Angela M Hornsby-Gutting commenced this case on November 21, 2013 by filing a voluntary petition for relief under Chapter 13 of the United States Bankruptcy Code.
2. This Court has jurisdiction over this motion, filed pursuant to 11 U.S.C. §522(f) to avoid and cancel a judicial lien held by Capital One (hereinafter referred to as “Creditor”) on real property used as the Debtors’ residence, under 28 U.S.C. §1334.
3. On or about 7/16/2013 , Creditor obtained a judgment against Debtor in The 31st Judicial Circuit Case # 1331-AC03709 and a judicial lien against the following debtors’ residence at:

5090 E Cherry Hills Blvd
Norwood, MO 65809
4. The Debtors’ interest in the property referred to in the preceding paragraph and encumbered by the lien has been claimed as full exempt in their bankruptcy case.

5. The existence of Creditor's lien on Debtors' real property impairs exemptions to which the Debtors would be entitled under 11 U.S.C. §522(b).

WHEREFORE, Debtors pray for an order against Capital One avoiding and canceling the judicial lien in the above-mentioned property, and for such additional or alternative relief as may be just and proper.

Dated: 01/09/2014

Respectfully submitted,
LICATA BANKRUPTCY FIRM, P.C.

/s/ Matthew J. Isaacson

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ATTORNEY FOR DEBTORS

CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2014, the foregoing was delivered via e-mail to all necessary parties that are registered to receive electronic filings on ECF, and regular first class, postage prepaid to all necessary parties that are not registered to receive electronic filings on ECF.

Capital One
PO Box 30281
Salt Lake City, UT 84130

Cohen, McNeile & Pappas PC
4601 College Blvd., Ste 200
Leawood, KS 66211

/s/ Matthew J. Isaacson